

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CR&R INCORPORATED
Employer

and

Cases 21-RC-262469
21-RC-262474

PACKAGE & GENERAL UTILITY
DRIVERS, TEAMSTERS LOCAL
UNION NO. 396
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is granted in part, as his direction of a mail-ballot election raises substantial issues warranting review. The Request for Review is denied in all other respects.¹

JOHN F. RING,

CHAIRMAN

WILLIAM J. EMANUEL,

MEMBER

Dated, Washington, D.C., October 9, 2020.

MEMBER McFERRAN, dissenting.

I would deny the Employer's request for review of the Regional Director's decision to order a mail-ballot election due to the threat posed by the COVID-19 pandemic. The mechanics of an election, including whether it is to be conducted by mail ballot, lie within the discretion of the Regional Director. See *San Diego Gas & Electric*, 325 NLRB 1143, 1144 (1998). Here, the Regional Director clearly and rationally considered all the relevant circumstances, including those supporting the Employer's argument for a manual election, but on balance concluded that a mail-ballot election was warranted in this case. Although individual

¹ While we agree with the Regional Director's conclusion that the A drivers share a community of interest with the B drivers, unlike the Regional Director, we find that the evidence of interchange only slightly weighs in favor in finding the petitioned-for unit appropriate. While there are examples of A drivers functioning as B drivers and evidence that B drivers permanently transferred to A driver positions, both one-way, temporary interchange and permanent interchange are afforded less weight in the community-of-interest analysis.

Board Members might themselves have struck the balance differently were they deciding the case in the first instance, that is not the applicable standard. Applying the correct standard, there is no basis to conclude that the Regional Director “clearly abused” his discretion. *National Van Lines*, 120 NLRB 1343, 1346 (1958). Accordingly, I dissent.

Dated, Washington, D.C., October 9, 2020.